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Attorneys for Plaintiff GLOCK, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

GLOCK, INC. a Georgia corporation,

Plaintiff,

v.

POLYMER80, INC., a Nevada corporation,

Defendant.

Case No.:

COMPLAINT

JURY DEMAND

1 Plaintiff GLOCK, Inc. (“GLOCK”), by and through its undersigned attorneys, files this
2 Complaint for Patent Infringement against Defendant Polymer80, Inc. (“Polymer80”), and in
3 support thereof alleges as follows:

4 **NATURE AND BASIS OF THE ACTION**

5
6 1. This is an action for patent infringement under the patent laws of the United States,
7 35 U.S.C. § 1, *et seq.* GLOCK seeks damages, preliminary and permanent injunctive relief, and
8 recovery of its reasonable costs and attorneys’ fees.

9 2. Plaintiff GLOCK is the leading global manufacturer of pistols. GLOCK pistols are
10 precisely engineered to meet the demanding specifications of military and law enforcement
11 agencies worldwide, earning GLOCK a reputation for safety, durability, reliability, and ease of use.
12 GLOCK invests tremendous resources in the technology and talent necessary to improve its
13 products wherever possible, resulting in numerous inventions and innovations in the field of
14 firearms and firearm accessories.
15

16 3. GLOCK and its affiliated entities’ history of innovation in the field of firearms and
17 firearm accessories has resulted in the issuance of approximately 40 U.S. patents on its industry-
18 leading inventions and solutions, including, but not limited to, the catch device for the breech of a
19 pistol disclosed in U.S. Patent No. 9,933,222 (“the ‘222 Patent”).
20

21 ///

22 ///

23 ///

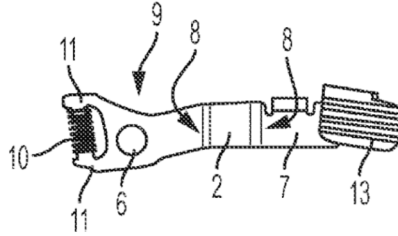
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(12) United States Patent Hirschheiter		(10) Patent No.: US 9,933,222 B2
		(45) Date of Patent: Apr. 3, 2018
(54) CATCH DEVICE FOR THE BREECH OF A PISTOL.	1,381,590 A * 6/1921 Oliver F41A 3/44	42/69/03
	1,405,685 A * 2/1922 Hammond F41A 17/38	42/7
(71) Applicants: Glock Technology GmbH , Deutsch Wagram (AT); Elisabeth Hirschheiter , Pörschach (AT)	2,538,799 A * 1/1951 Phillips F41A 17/36	89/138
	2,975,680 A * 3/1961 Wilson F41A 3/38	42/25
(72) Inventor: Reinhold Hirschheiter , Pörschach (AT)	3,069,976 A * 12/1962 Stevens, Jr. F41A 3/40	42/18
(73) Assignee: Glock Technology GmbH (AT)	3,109,345 A * 11/1963 Norman F41A 7/02	42/18
(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 52 days.	3,540,142 A * 11/1970 Billett F41A 7/02	42/18
		(Continued)
		FOREIGN PATENT DOCUMENTS
(21) Appl. No.: 14/567,896	EP 0077790 A1 5/1983	
(22) Filed: Dec. 11, 2014	EP 0268276 A2 * 5/1988 F41A 3/66	
(65) Prior Publication Data	<i>Primary Examiner</i> — Troy Chambers	
US 2015/0192378 A1 Jul. 9, 2015	<i>Assistant Examiner</i> — Benjamin S Gombert	
(30) Foreign Application Priority Data	(74) <i>Attorney, Agent, or Firm</i> — Kolisch Hartwell, P.C.	
Dec. 11, 2013 (EP) 13196708	(57) ABSTRACT	
(51) Int. CL. F41A 17/36 (2006.01)	A catch device for the breech of a pistol, in which a spring acts upon a pivotable holding lever so that the latch thereof passes out of the path of the breech and the handle thereof is pressed away from the breech. Part of the holding lever is pivoted by the magazine slide, after the final cartridge has been pushed in counter to the force of the spring, so that after the cartridge has been fired, the breech is caught against the latch and remains in the region of the rear end position thereof. In order to increase service life, the spring is a compression spring, pretensioned between two claws of the holding lever and arranged in a slot of the housing so that one end bears against the base of the slot and the other end bears against the claw.	
(52) U.S. CL. CPC F41A 17/36 (2013.01)		
(58) Field of Classification Search CPC F41A 17/36; F41A 17/40; F41A 17/42; F41A 3/70; F41A 17/34 USPC 42/7, 70.01–70.02; 89/137–138 See application file for complete search history.		
(56) References Cited U.S. PATENT DOCUMENTS		
1,176,254 A * 3/1916 Smith F41A 3/12		
1,359,365 A * 11/1920 Hammond F41A 3/64		
	42/7	
	4 Claims, 4 Drawing Sheets	



A true and correct copy of the '222 Patent is attached hereto as Exhibit A.

4. GLOCK makes, offers for sale, and sells a number of pistols that practice one or more claims of the '222 Patent.

5. Polymer80 is a manufacturer, supplier, seller, and/or distributor of firearm kits and parts, including partially completed pistol "frames" or "blanks," and are commonly known as "ghost guns" or "80%" guns.

6. Polymer80 has made and continues to make, has used and continues to use, has offered for sale and continues to offer for sale, and has sold and continues to sell various "single stack" pistol frames designed to incorporate and sold with slide stop levers, including its "PF9SS Single Stack Blank" pistol frame and components in a variety of finishes, as discussed in more

1 detail below.

2 7. Polymer80 has offered for sale and sold, and continues to offer for sale and/or sell,
3 the Accused Products in the United States for assembly and inclusion – as specifically made and
4 directed by Polymer80 – by Polymer80’s employees, distributors, dealers, and/or customers in
5 completed pistols utilizing the pistol blanks and slide stop levers.
6

7 8. By making, using, offering for sale, selling, and/or importing the Accused Products,
8 Polymer80 has indirectly infringed and continues to infringe one or more claims of the ‘222 Patent.
9 Because of Polymer80’s ongoing infringement, GLOCK seeks a preliminary injunction, a
10 permanent injunction, and monetary damages with respect to sales of the Accused Products.
11 Moreover, GLOCK respectfully submits that the present case is exceptional and that GLOCK is
12 entitled to enhanced damages against Polymer80 and an award of its reasonable attorneys’ fees and
13 costs.
14

15 **THE PARTIES**

16 9. Plaintiff GLOCK is a corporation organized and existing under the laws of the State
17 of Georgia with its principal place of business at 6000 Highlands Parkway, Smyrna, GA 30082.

18 10. Upon information and belief Defendant Polymer80, is a Nevada corporation with its
19 principal place of business located at 134 Lakes Boulevard, Dayton, Nevada 89403. Upon further
20 information and belief, Polymer80 may be served by serving its Registered Agent Mark H.
21 Gunderson at his registered address of 3895 Warren Way, Reno, Nevada 89505.
22

23 **JURISDICTION AND VENUE**

24 11. This Court has jurisdiction over the subject matter of this action pursuant to 28
25 U.S.C. §§ 1331 and 1338(a) because this Complaint includes a cause of action for patent
26 infringement under the patent laws of the United States, including, but not limited to, 35 U.S.C. §§
27 271, 281, 283-285, and 287.
28

1 12. This Court has personal jurisdiction over Polymer80 at least because Polymer80
2 resides in this District, has transacted business in this District, has derived substantial revenue from
3 goods offered for sale and/or sold in this District, and/or has established sufficient minimum
4 contacts with the State of Nevada such that it is subject to the personal jurisdiction of this Court.
5 Personal jurisdiction in Nevada over Polymer80 is also consistent with the requirements of due
6 process.
7

8 13. Venue is proper in the Unofficial Northern Division of the United States District
9 Court for the District of Nevada under 28 U.S.C. §§ 1391 and 1400(b) because Polymer80 resides
10 in this District, has a regular and established place of business in this District located at 134 Lakes
11 Boulevard Dayton, Nevada 89403, has committed acts of infringement in this District, and a
12 substantial part of the events or omissions giving rise to the claims occurred in this District.
13

14 **GLOCK AND ITS PATENT RIGHTS**

15 14. GLOCK and its affiliated entities have invested a substantial amount of time and
16 resources designing, developing, and bringing new and innovative products to market in the
17 firearms industry.

18 15. GLOCK and its affiliated entities have designed and developed a wide range of new
19 and innovative firearm products, including a number of innovative firearm components and
20 accessories specifically for pistols. In particular, GLOCK and its affiliated entities' research and
21 development staff designed and developed a number of innovative pistol components practiced in
22 its pistol products and are protected by Glock patents.
23

24 16. As a result of these efforts, GLOCK and its affiliate entities have been granted a
25 U.S. patent on its innovative catch device for the breech of a pistol.

26 17. The '222 Patent, entitled "Catch Device for the Breech of a Pistol," was applied-for
27 in an application filed on December 11, 2014, and was duly and legally issued by the United States
28

Patent and Trademark Office (“PTO”) on April 3, 2018. *See* Exhibit A.

18. GLOCK is the owner by exclusive license of all right, title, and interest in the ‘222 Patent, including the right to make, use, offer for sale, sell, or import patented products and to enforce the ‘222 Patent.

19. GLOCK has commercialized one or more of the innovative designs disclosed in the ‘222 Patent in various of its pistols, such as the Model G43®, Model G43X®, and Model G48™,” each in a variety of finishes and optics:



<https://us.glock.com/en/Pistols>

See Exhibit B.

20. Pursuant to 35 U.S.C. § 287(a), GLOCK has continuously and systematically marked its pistols that practice one or more claims of the ‘222 Patent with the marking “Pat. us.glock.com/patent” in conjunction with GLOCK’s publicly-available virtual registry of covered pistols (e.g., <https://us.glock.com/-/media/Global/US/old/US-Site/Virtual-Patent-Marking--Version-2-060319.ashx>). *See* Exhibit C.

POLYMER80’S INFRINGING CONDUCT

21. Polymer80 has made and continues to make, has used and continues to use, has offered for sale and continues to offer for sale, and has sold and continues to sell various “PF9SS Single Stack Blank” pistol frame and components in a variety of finishes (the “Accused Products”), including the following Polymer80 products:

- PF9SS SINGLE STACK BLANK – BLK (SKU: P80-BKSS-BLK):



<https://www.polymer80.com/-BKSS-BLK>

- PF9SS SINGLE STACK BLANK – FDE (SKU: P80-BKSS-FDE):



<https://www.polymer80.com/-BKSS-FDE>

- PF9SS SINGLE STACK BLANK – GRY (SKU: P80-BKSS-GRY):



<https://www.polymer80.com/-BKSS-GRY>

- PF-SERIES RAIL KIT FOR THE SINGLE STACK PF9SS/BK9SS (SKU: P80-PF9SS-LBRS-RRM):



<https://www.polymer80.com/PF-Series-Rail-Kit-for-the-9SS>

See Exhibit D.

22. Upon information and belief, Polymer80 has known of and has had actual knowledge of the '222 Patent and/or that GLOCK's pistols were marked with or practiced one or more claims of the '222 Patent.

23. As discussed in more detail below, Polymer80's Accused Products have indirectly infringed and continue to indirectly infringe claims 1-4 of the '222 Patent by Polymer80's making, using, importing, selling, and/or offering to sell the Accused Products within the United

1 States for use in a completed pistol and without authority in violation of 35 U.S.C. §§ 271(b)-(c).

2 24. Polymer80's employees, distributors and/or customers have directly infringed and
3 continue to directly infringe, literally or under the doctrine of equivalents, claims 1-4 of the '222
4 Patent by, without authority, making and using completed pistols incorporating the Accused
5 Products within the United States in violation of 35 U.S.C. § 271(a).

6 25. Polymer80 has indirectly infringed and continues to indirectly infringe claims 1-4
7 of the '222 Patent within the United States by inducement under 35 U.S.C. § 271(b). For
8 example, Polymer80 has knowingly and intentionally induced users of the Accused Products to
9 directly infringe claims 1-4 of the '222 Patent, *inter alia*, by:

- 11 a. providing pistol blank kits including a slide stop lever and slide stop spring;
- 12 b. providing pistol rail kits comprising a slide stop lever and slide stop spring;
- 13 c. providing installation instructions on how to install and use the Accused Products
14 in an infringing manner; and
- 15 d. directing and encouraging the actions of employees, distributors, and/or customers
16 to directly infringe.

17 26. Polymer80 has indirectly infringed and continues to infringe claims 1-4 of the '222
18 Patent by contributing to the direct infringement of end users under 35 U.S.C. § 271(c) by
19 providing the Accused Products, which were and are especially made for and used in a manner
20 that infringes claims 1-4 of the '222 Patent, and that have no substantial non-infringing use.

21 27. By such acts, Polymer80 has injured GLOCK and is thus liable to GLOCK for
22 infringement of the '222 Patent pursuant to 35 U.S.C. § 271.

23 **COUNT I – INDUCED INFRINGEMENT OF THE '222 PATENT**

24 28. GLOCK incorporates and re-alleges the allegations contained in Paragraphs 1
25 through 27 above as if fully set forth herein.

1 29. Upon information and belief, prior to May of 2019, Polymer80 has known of
2 GLOCK's patents and has had actual knowledge of the '222 Patent.

3 30. Polymer80 directed, instructed, and encouraged its employees, distributors,
4 dealers, and/or customers to install and/or use the Accused Products in an infringing manner in its
5 product packaging and product advertising, by providing support and technical assistance, and by
6 providing installation instructions or instructional materials, among other acts.

7 31. When the Accused Products were or are used by Polymer80's employees,
8 distributors, dealers, or customers in the manner instructed and directed by Polymer80,
9 Polymer80's employees, distributors, dealers, or customers directly infringe one or more of
10 claims 1-4 of the '222 Patent.

11 32. For example, an exemplary summary of direct infringement of claim 1 of the '222
12 Patent, when Polymer80's Accused Products are included in a completed pistol, is provided as
13 follows:
14

- 15
- 16 a. Feature 1: When included in a completed pistol, the Accused Products provide
17 for the pistol to have a catch device to retain a sliding carriage of the pistol;
 - 18 b. Feature 2: When included in a completed pistol, the Accused Products provide
19 for the pistol to have a holding lever and a compression spring between the
20 upper claw and the lower claw of the spring;
 - 21 c. Feature 3: When included in a completed pistol, the Accused Products provide
22 for the holding lever to be mounted in the housing of the pistol and have a latch
23 on the upper side of the lever and a handle on the lever; and
 - 24 d. Feature 4: When included in a completed pistol, the Accused Products provide
25 for the spring to bias the lever away from the sliding carriage, and for the
26 holding lever to be moved counter to the bias when a final cartridge of a
27
28

1 magazine is fired.

2 33. Accordingly, Polymer80's Accused Products, when included in a completed pistol,
3 result in direct infringement of one or more of claims 1-4 of the '222 Patent in violation of 35
4 U.S.C. § 271(a), and Polymer80 thereby indirectly infringes the '222 Patent by inducing
5 infringement of the '222 Patent, pursuant to 35 U.S.C. § 271(b).
6

7 34. As a result of Polymer80's infringement of the '222 Patent, GLOCK has been
8 damaged by Polymer80's unlawful conduct. GLOCK is entitled to recover damages pursuant to
9 28 U.S.C. § 284 adequate to compensate it for Polymer80's infringing activities in an amount to
10 be determined at trial, but in no event less than a reasonable royalty.

11 35. Polymer80's infringement of the '222 Patent has injured and continues to injure
12 GLOCK and will cause irreparable harm unless Polymer80 is enjoined from infringing the claims
13 of the '222 Patent. Accordingly, GLOCK is entitled to temporary, preliminary, and/or permanent
14 injunctive relief against Polymer80 from further induced infringement pursuant to 35 U.S.C. §
15 283.
16

17 36. Polymer80's past and continued induced infringement of the '222 Patent has been
18 deliberate, willful, which warrants an award of treble damages and reasonable attorneys' fees to
19 GLOCK pursuant to 28 U.S.C. §§ 284 & 285.
20

21 **COUNT II – CONTRIBUTORY INFRINGEMENT OF THE '222 PATENT**

22 37. GLOCK incorporates and re-alleges the allegations contained in Paragraphs 1
23 through 27 above as if fully set forth herein.

24 38. Upon information and belief, prior to May of 2019, Polymer80 has known of
25 GLOCK's patents and has had actual knowledge of the '222 Patent.

26 39. Polymer80 has provided its employees, distributors, dealers, and/or customers with
27 the Accused Products, which are essential to practice the invention of the '222 Patent. Polymer80
28

1 was and is aware that the Accused Products were and are especially made for or adapted for use
2 in a manner that infringed and infringes one or more of claims 1-4 of the '222 Patent.

3 40. Polymer80 was and is aware that the Accused Products were and are not a staple
4 article or commodity of commerce suitable for substantial non-infringing use, and had and have
5 no substantial non-infringing use, in that the Accused Products can only be used in a manner that
6 infringes the '222 Patent.

7
8 41. When the Accused Products are used by Polymer80's employees, distributors,
9 and/or customers in a completed pistol, the Accused Products directly infringe one or more of
10 claims 1-4 of the '222 Patent, as set forth above.

11 42. Accordingly, Polymer80 has indirectly infringed and continues to indirectly
12 infringe the '222 Patent by contributing to infringement of the '222 Patent, pursuant to 35 U.S.C.
13 § 271(c).

14 43. As a result of Polymer80's contributory infringement of the '222 Patent, GLOCK
15 has been damaged by Polymer80's unlawful conduct. GLOCK is entitled to recover damages
16 pursuant to 28 U.S.C. § 284 adequate to compensate it for Polymer80's infringing activities in an
17 amount to be determined at trial, but in no event less than a reasonable royalty.

18 44. Polymer80's infringement of the '222 Patent has injured and continues to injure
19 GLOCK and will cause irreparable harm unless Polymer80 is enjoined from contributorily
20 infringing the claims of the '222 Patent. Accordingly, GLOCK is entitled to temporary,
21 preliminary, and/or permanent injunctive relief against Polymer80 from further infringement
22 pursuant to 35 U.S.C. § 283.

23 45. Upon information and belief, Polymer80's past and continued contributory
24 infringement of the '222 Patent has been deliberate, willful, which warrants an award of treble
25 damages and reasonable attorneys' fees to GLOCK pursuant to 28 U.S.C. §§ 284 & 285.

PRAYER FOR RELIEF

WHEREFORE, GLOCK prays that this Court enter judgment in favor of GLOCK and against Polymer80 as follows:

- A. Entry of judgment that Polymer80 has indirectly infringed the '222 Patent pursuant to 35 U.S.C. § 271 (b) and/or (c);
- B. An order that Polymer80 provide an accounting and pay to GLOCK damages in an amount adequate to compensate GLOCK for Polymer80's infringement of the '222 Patent, including damages for lost profits, but in no event less than a reasonable royalty, including up to treble damages for willful infringement pursuant to 35 U.S.C. § 284;
- C. An order preliminarily and permanently enjoining Polymer80 and its respective agents, servants, officers, directors, employees, attorneys, affiliated companies, successors-in-interest, distributors, dealers, other reselling entity customers, and all those in active concert or participation with it, and all other parties properly enjoined by law, from infringing directly or indirectly, inducing others to directly infringe, and/or contributing to the infringement of the claims of the '222 Patent;
- D. An order that this is an exceptional case under 35 U.S.C. § 285 meriting that GLOCK be awarded its costs, including its reasonable attorneys' fees and other expenses incurred in connection with this action; and,
- E. Any other relief that the Court finds legal, just and equitable, as may be available under law or equity, and which the Court finds proper.

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1 This 6th day of March, 2023.

2 BROWNSTEIN HYATT FARBER SCHRECK, LLP

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4 Matthew D. Francis

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Attorneys for Plaintiff GLOCK, Inc.

DEMAND FOR TRIAL BY JURY

GLOCK demands trial by jury of all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

This 6th day of March, 2023.

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By: /s/ Matthew D. Francis

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INDEX OF EXHIBITS

A.	U.S. Patent No. 9,933,222	9 Pages
B.	Pages from Glock's website	12 Pages
C.	Virtual Patent Marking of Glock® Products	2 Pages
D.	Pages from Polymer80's website	8 Pages